

## APPENDIX 6

### State Law Variations on the Proper Measure of UE

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<b>Jurisdiction<sup>1</sup></b>	<b>UE Damages = “reasonable value” of the goods or services rendered</b>	<b>UE Damages = amount of benefit that would be “unjust” to retain</b>	<b>Miscellaneous</b>
Alabama		✓ <i>American Family Care, Inc. v. Fox</i> , 642 So.2d 486, 488 (Ala. Civ. App. 1994).	
Alaska		✓ <i>Bennett v. Artus</i> , 20 P.3d 560, 564 (Alaska 2001).	
Arkansas		✓ <i>Hartness v. Nuckles</i> , 2015 Ark. 444, 8–9, 475 S.W.3d 558, 564 (2015).	✓ <i>City of Damascus v. Bivens</i> , 291 Ark. 600, 603, 726 S.W.2d 677, 679 (1987) (The measure of unjust enrichment depends upon the type of recipient, whether the recipient is innocent or a wrongdoer, and whether the enrichment is primary or secondary).
Arizona	✓ <i>Beauchamp L. Off. PC v. Gust Rosenfeld PLC</i> , 2018 WL 1868033, at *2–4 (Ariz. Ct. App. Apr. 19, 2018).		
California		✓ <i>Am. Master Lease LLC v. Idanta Partners, Ltd.</i> , 225 Cal. App. 4th 1451, 1481–86, 171 Cal. Rptr. 3d 548, 572–76 (2014).	✓ <i>Meister v. Mensinger</i> , 230 Cal. App. 4th 381, 401, 178 Cal. Rptr. 3d 604, 620 (2014) (As we have previously noted in discussing the concept of unjust enrichment,

<sup>1</sup> Note, Michigan, New Hampshire, West Virginia, and Wisconsin are not included in this analysis, as Plaintiffs do not seek UE classes involving those states. Conversely, Louisiana is included since Plaintiffs purport to seek certification of a class including Louisiana, despite this court having previously dismissed with prejudice unjust enrichment claims in Louisiana. MTD Order 5, ECF 839.

			“[t]here is no standard formula to measure it.”).
Colorado		✓ <i>Rocky Mountain Nat. Gas, LLC v. Colorado Mountain Junior Coll. Dist.</i> , 385 P.3d 848, 855 (Colo. Ct. App. 2014).	
Connecticut		✓ <i>Hartford Whalers Hockey Club v. Uniroyal Goodrich Tire Co.</i> , 231 Conn. 276, 285, 649 A.2d 518, 522–23 (1994).	
Delaware		✓ <i>Mehta v. Smurfit-Stone Container Corp.</i> , 2014 WL 5438534 at *6 (Del. Ch. Oct. 20, 2014).	
Florida		✓ <i>F.H. Paschen, S.N. Nielsen &amp; Assocs. LLC v. B&amp;B Site Dev., Inc.</i> , 311 So. 3d 39, 50–51 (Fla. Dist. Ct. App. 2021).	
Georgia		✓ <i>Zampatti v. Tradebank Intl. &amp;c.</i> , 235 Ga. App. 333, 340(5), 508 S.E.2d 750 (1998).	
Hawaii		✓ <i>Porter v. Hu</i> , 116 Haw. 42, 54–56, 169 P.3d 994, 1006–08 (Ct. App. 2007).	✓ <i>Small v. Badenhop</i> , 67 Haw. 626, 635–36, 701 P.2d 647, 654 (1985); <i>Durette v. Aloha Plastic Recycling, Inc.</i> , 105 Haw. 490, 100 P.3d 60 (2004) (Unjust enrichment, as a claim for relief, is not clearly defined in either the Hawaii Revised Statutes or our jurisprudence... It is axiomatic that “[a] person who has been

			unjustly enriched at the expense of another is required to make restitution to the other. We realize unjust enrichment is a broad and imprecise term defying definition.”).
Idaho		✓ <i>Indep. Sch. Dist. of Boise City v. Harris Fam. Ltd. P'ship</i> , 150 Idaho 583, 589, 249 P.3d 382, 388 (2011).	
Illinois		✓ <i>Herbert W. Jaeger &amp; Assocs. v. Slovak Am. Charitable Ass'n</i> , 156 Ill. App. 3d 106, 111, 507 N.E.2d 863, 866–67 (1987).	
Indiana		✓ <i>Rollings v. Smith</i> , 716 N.E.2d 502, 507 (Ind. Ct. App. 1999).	
Iowa	✓ <i>CRST Expedited, Inc. v. Swift Transportation Co. of Arizona, LLC</i> , 2019 WL 2358407 at *25 (N.D. Iowa June 4, 2019).		
Kansas		✓ <i>Hurtig v. Mattox</i> , 2017 WL 6542803 at *8 (Kan. Ct. App. Dec. 22, 2017).	
Kentucky	✓ <i>C.A.F. &amp; Assocs., LLC v. Portage, Inc.</i> , 2012 WL 5077677 at *2–5 (W.D. Ky. Oct. 18, 2012); <i>Triple Elkhorn Mining Co. v. Anderson</i> , 646 S.W.2d 725 (Ky. 1983).		

Louisiana <sup>2</sup>	✓ <i>Sec. Home Mortg. Corp. v. Bogues</i> , 519 So. 2d 307, 310–11 (La. Ct. App. 1988).		✓ <i>Quaternary Res. Investigations, LLC v. Phillips</i> , 2018-1543 (La. App. 1 Cir. Nov. 19, 2020) (The Louisiana doctrine of “enrichment without cause,” or as it is commonly known, unjust enrichment, is codified by Louisiana Civil Code article 2298 which provides, a person who has been enriched without cause at the expense of another person is bound to compensate that person. The amount of compensation due is measured by the extent to which one has been enriched or the other has been impoverished, whichever is less. The extent of the enrichment or impoverishment is measured as of the time the suit is brought or, according to the circumstances, as of the time the judgment is rendered.).
Maine		✓ <i>A.F.A.B., Inc. v. Town of Old Orchard Beach</i> , 657 A.2d 323, 325 (Me.1995).	
Maryland		✓ <i>Mogavero v. Silverstein</i> , 142 Md. App. 259, 276, 790 A.2d 43, 53 (2002); <i>Everhart v. Miles</i> , 47 Md. App. 131, 422 A.2d 28 (1980).	

<sup>2</sup> UE claims in Louisiana were previously dismissed with prejudice by this Court (MTD Order 5, ECF 839); nonetheless, Plaintiffs include Louisiana in their proposed class definitions.

Massachusetts	✓ <i>Bonina v. Sheppard</i> , 91 Mass. App. Ct. 622, 626–30, 78 N.E.3d 128, 133–36 (2017).	✓ <i>Precision Builders &amp; Restoration Specialists, Inc. v. Shea</i> , 1995 WL 505976 at *2 (Mass. App. Aug. 22, 1995).	
Minnesota		✓ <i>Neilands v. Perry</i> , 2020 WL 1983312 at *2 (Minn. Ct. App. Apr. 27, 2020).	
Mississippi		✓ <i>Magnolia Federal Savings &amp; Loan v. Randal Craft Realty</i> , 342 So.2d 1308, 1312 (Miss. 1977).	
Missouri		✓ <i>Smith v. Smith</i> , 17 S.W.3d 592, 597–98 (Mo. Ct. App. 2000).	
Montana	✓ <i>Storms v. Bergsieker</i> (1992), 254 Mont. 130, 133-34, 835 P.2d 738, 740-41.	✓ <i>Storms v. Bergsieker</i> (1992), 254 Mont. 130, 133-34, 835 P.2d 738, 740-41.	
Nebraska		✓ <i>Trieweiler v. Sears</i> , 268 Neb. 952, 979 (2004).	
Nevada	✓ <i>Asphalt Prod. Corp. v. All Star Ready Mix, Inc.</i> , 111 Nev. 799, 802, 898 P.2d 699, 701 (1995).		
New Jersey	✓ <i>Rauch v. Rauch</i> , 2017 WL 3722545 at *8 (Aug. 30, 2017).	✓ <i>Cheesequake Realty, L.L.C. v. Finkelstein</i> , 2010 WL 2991000 at *6 (July 28, 2010).	
New Mexico		✓ <i>Martin v. Comcast Cablevision Corp. of California LLC</i> , 338 P.3d 107, 110-11 (2014).	

New York	✓ <i>Community Care Physicians, P.C. v. Domagalski</i> , 2016 WL 1735501 at *3 (May 2, 2016).	✓ <i>Naimoli v. Massa</i> , 366 N.Y.S. 2d, 573, 578 (1975).	
North Carolina	✓ <i>Booe v. Shadrack</i> , 322 N.C. 567, 570 (1988).		
North Dakota	✓ <i>Morrell v. Hepper</i> , 312 N.W.2d 364, 366 (N.D. 1981).	✓ <i>Morrell v. Hepper</i> , 312 N.W.2d 364, 366 (N.D. 1981).	
Ohio	✓ <i>Blue Chip Pavement Maintenance, Inc. v. Ryan's Family Steak Houses, Inc.</i> , 2004 WL 1436362 at *3 (12 <sup>th</sup> Dist. Ct. App. June 28, 2004).		
Oklahoma	✓ <i>Welling v. Amer. Roofing and Sheet Metal Co.</i> , 617 P.2d 206, 209-10 (1980).		
Oregon		✓ <i>Evergreen West Business Center, LLC v. Emmert</i> , 323 P.3d 250, 255 (2014).	
Pennsylvania		✓ <i>Knoblauch, Inc. v. Singer</i> , 53 Pa. D&C 4 <sup>th</sup> 174, 182 (Pa. 2001).	
Rhode Island		✓ <i>Caseau v. Belisle</i> , 2005 WL 2354135 at *7 (Sep. 26, 2005).	
South Carolina		✓ <i>Stringer Oil Co. v. Bobo</i> , 320 S.C. 369, 373–74, 465 S.E.2d 366, 369 (Ct. App. 1995).	
South Dakota		✓ <i>Johnson v. Larson</i> , 2010 S.D. 20, ¶ 15, 779 N.W.2d 412, 418.	
Tennessee	✓ <i>Lawler v. Zapletal</i> , 679 S.W.2d 950, 955 (Tenn. App. 1984).		

Texas		✓ <i>Barrett v. Ferrell</i> , 550 S.W.2d 138, 143 (Tex.Civ.App.—Tyler 1977, writ ref'd n.r.e.).	
Utah	✓ <i>Baugh v. Darley</i> , 112 Utah 1, 9, 184 P.2d 335, 339 (1947).		
Vermont		✓ <i>DJ Painting Inc. v. Baraw Enterprises, Inc.</i> , 172 Vt. 239, fn. 2 (2001).	
Virginia		✓ <i>T. Musgrove Construction Co., Inc. v. Young</i> , 298 Va. 480, 486 (2020).	
Washington	✓ <i>Young. v. Young</i> , 164 Wash.2d 477, 487 (2008).	✓ <i>Young. v. Young</i> , 164 Wash.2d 477, 487 (2008).	
Wyoming	✓ <i>Cross v. Berg Lumber Co.</i> , 7 P.3d 922, 936 (2000).	✓ <i>Cross v. Berg Lumber Co.</i> , 7 P.3d 922, 936 (32000).	
Puerto Rico		✓ <i>Ortiz Andujar v. E.L.A.</i> , 1988 WL 580737 at *783 (Dec. 2, 1988).	